

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LITTLE CAESARS ENTERPRISES, INC.,  
and LC TRADEMARKS, INC.,

Plaintiff,

v.

Case No. 21-cv-11776  
Honorable Linda V. Parker

S & S PIZZA ENTERPRISES, INC.,  
SHERYL CLAEYS, SUZANNE L.  
MATTHEWS, and ROY A. MATTHEWS,

Defendants.

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**OPINION AND ORDER**

On August 2, 2021, Plaintiffs filed this lawsuit against Defendants asserting the following claims: (I) breach of contract; (II) trademark infringement; (III) unfair competition; and (IV) trade dress infringement. (ECF No. 1.) Plaintiffs thereafter moved for summary judgment with respect to their breach of contract claim (ECF No. 27), only, to which Defendants filed no response. In a decision issued August 24, 2023, the Court granted Plaintiffs' motion, concluding that Defendants breached their contract with Plaintiffs and were required to pay the requisite liquidated damages and attorneys' fees pursuant to their franchise agreement. (*See* ECF No. 28.)

The matter is presently before the Court on Plaintiffs’ “Motion to Amend/Correct Complaint.” (ECF No. 30.) In the motion, Plaintiffs seek to “dismiss the Complaint’s remaining causes of action, Counts II-IV.” (*Id.* at PageID. 343.) Plaintiffs indicate that “Defendants have ceased operating and abandoned their former Little Caesars franchises and Little Caesar[s] no longer wishes to pursue damages for Defendants’ alleged unauthorized use of Little Caesar’s trademarks and trade dress.” (*Id.*) The deadline for Defendants to respond to Plaintiffs’ motion has long expired, with Defendants failing to respond.

As the amendment of a pleading is an inefficient mechanism for deleting claims at this juncture,<sup>1</sup> the Court is construing the motion as one to dismiss pursuant to Federal Rule of Civil Procedure 41(a)(2). As Defendants have not opposed Plaintiffs’ request, the Court is **GRANTING** Plaintiffs’ motion. This leaves nothing further for the Court to adjudicate as liability and damages with respect to Plaintiffs’ remaining breach of contract claim were decided in the summary judgment decision.

Within fourteen (14) days of this Opinion and Order, Plaintiffs shall file (1) a “Proposed Judgment” and (2) supporting documentation for any included

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<sup>1</sup> If Plaintiffs were permitted to file an amended complaint deleting all but their breach of contract claim, Defendants would need to answer the pleading. This does nothing to move the case forward.

attorneys' fees and costs. Within fourteen (14) days thereafter, Defendants must file any objections to the Proposed Judgment that they have.

**SO ORDERED.**

s/ Linda V. Parker  
LINDA V. PARKER  
U.S. DISTRICT JUDGE

Dated: February 22, 2024